

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE                   §  
PETITION OF ALONZO MORRIS       § No. 525, 2009  
FOR A WRIT OF MANDAMUS           §

Submitted: September 25, 2009  
Decided: September 30, 2009

Before **HOLLAND, BERGER** and **JACOBS**, Justices

**ORDER**

This 30<sup>th</sup> day of September 2009, it appears to the Court that:

(1) The petitioner, Alonzo Morris, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus<sup>1</sup> to compel the Superior Court to review its probable cause determination in *State v. Morris*, Del. Super., Cr. ID No. 9911000751. Specifically, Morris asks that the Superior Court be compelled to determine what impact allegedly false information in the police officer's affidavit had on the grand jury's decision making process. The State of Delaware has filed an answer requesting that Morris' petition be dismissed. We find that Morris' petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) In March 2000, Morris was found guilty by a Superior Court jury of Assault in the First Degree and Possession of a Deadly Weapon

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<sup>1</sup> Del. Const. art. IV, §11(6); Supr. Ct. R. 43.

During the Commission of a Felony. On direct appeal, this Court reversed Morris' convictions due to prosecutorial misconduct.<sup>2</sup> Morris was then re-indicted. After unsuccessfully requesting the Superior Court to dismiss the indictment on double jeopardy grounds and unsuccessfully petitioning for a writ of prohibition in this Court,<sup>3</sup> Morris was re-tried and again convicted of the same two charges. This Court affirmed Morris' convictions on direct appeal.<sup>4</sup> The Superior Court's denial of Morris' subsequent postconviction motion also was affirmed by this Court.<sup>5</sup>

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.<sup>6</sup> As a condition precedent to the issuance of the writ, the petitioner must demonstrate that a) he has a clear right to the performance of a duty; b) no other adequate remedy is available; and c) the trial court has arbitrarily failed or refused to perform the duty.<sup>7</sup>

(4) There is no basis for the issuance of a writ of mandamus in this case. Morris has failed to demonstrate that he has a clear right to the performance of a duty by the Superior Court that it has failed or refused to perform. Moreover, because Morris' claim is properly asserted in a

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<sup>2</sup> *Morris v. State*, 795 A.2d 653 (Del. 2002).

<sup>3</sup> *In re Morris*, Del. Supr., No. 513, 2002, Holland, J. (Nov. 4, 2002).

<sup>4</sup> *Morris v. State*, Del. Supr., No. 21, 2003, Steele, C.J. (Mar. 3, 2004).

<sup>5</sup> *Morris v. State*, Del. Supr., No. 215, 2005, Jacobs, J. (Apr. 13, 2006).

<sup>6</sup> *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

<sup>7</sup> *Id.*

postconviction motion, he has failed to demonstrate that there is no other adequate remedy available to him. Because this Court lacks jurisdiction to entertain Morris' petition, it must be dismissed.

NOW, THEREFORE, IT IS ORDERED that Morris' petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger  
Justice